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Travis County Judge Signs Order to Dismiss Rosa Jimenez's Murder and Injury to a Child Indictment *TCADO Joined Ms. Jimenez's Counsel to Dismiss on the Basis of Actual Innocence*

Travis County, TX – Today, Travis County District Attorney José Garza announced that Judge Sage signed the State's Motion to Dismiss Rosa Jimenez's Murder and Injury to a Child Indictment, in which the State asserted that it has determined no credible evidence exists that inculcates Ms. Jimenez and its belief that she is innocent of the crime for which she was convicted and sentenced for in this cause.

In 2005, Ms. Jimenez was convicted of one count of murder and one count of injury to a child and sentenced to 99 years imprisonment for the death of a 21- month-old toddler who choked on a wad of paper towels while in her care.

The Travis County District Attorney's Office, through its Trial Division, Special Victims Unit, and Conviction Integrity Unit, conducted a thorough review of the evidence, including significant reports and testimony of numerous pediatric otolaryngologists who specialize in the management of children's airways who unanimously concluded that toddler's choking was the result of a tragic accident.

In January 2021, the Travis County District Attorney's Office Civil Integrity Unit joined Ms. Jimenez's counsel, the Innocence Project, and requested her release on the basis that false medical assumptions were used to convict her, namely, opinion evidence used in her 2005 trial as to whether a child could involuntarily choke on an object under TX CCP 11.073.

During the writ hearing, pediatric airway experts testified that the child's death could have been accidental. Recognizing the expertise of the pediatric otolaryngologists in the blocked airways of children and the biological mechanisms that play in pediatric airway blockage situations, the State's pathologist revised her trial testimony on behalf of the State where she stated that the toddler's death could not have been accidental.

Our office joined the defense in arguing that, in light of the testimony and affidavit from our expert witness, Ms. Jimenez is entitled to relief because the evidence used against her was no longer reliable.

As a result, on January 27, 2021, Judge Sage signed an order to release Ms. Jimenez on bond after finding that Ms. Jimenez is likely innocent and, at a minimum, entitled to a new trial.

On May 31, 2023, the Texas Court of Criminal Appeals agreed that Ms. Rosa Jimenez is entitled to relief based on the false testimony provided during her trial and remanded this case back to the trial court.

On July 24, 2023, our office filed a motion to dismiss the indictment in this cause against Rosa Jimenez after the Texas Court of Criminal Appeals granted post-conviction relief to Ms. Jimenez.

“As prosecutors, we have an obligation to ensure the integrity of convictions and to seek justice,” said Travis County District Attorney José Garza. “In the case against Rosa Jimenez, it is clear that false medical testimony was used to obtain her conviction, and without that testimony under the law, she would not have been convicted. Dismissing Ms. Jimenez’s case is the right thing to do. Our hearts also continue to break for the Gutierrez family. In this case, our criminal justice system failed them, and it also failed Rosa Jimenez. Our hope is that by our actions today, by exposing the truth that Ms. Jimenez did not commit the crime for which she was accused, we can give some sense of closure and peace to both families.”

“Rosa was the mom to a one-year-old girl and seven months pregnant when this ordeal began. She was forced to give birth to her son in jail, shackled, while awaiting trial. For the past 20 years, she has fought for this day, her freedom, and to be reunited with her children.” said Vanessa Potkin, director of special litigation at the Innocence Project and Ms. Jimenez’s attorney. “Her wrongful conviction was not grounded in medical science, but faulty medical assumptions that turned a tragedy into a crime — with her own attorney doing virtually nothing to defend her. I wish we could say that what happened to Rosa was an isolated occurrence, but we have a real, pervasive problem in our country when it comes to how the criminal legal system treats the caregivers of children who are hurt or die. There are hundreds, if not thousands, of innocent caregivers and parents in prison today based on faulty, unscientific medical testimony misclassifying accidents or illness as abuse.”

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